



**Paul J. Diodati**  
*Director*

# ***Commonwealth of Massachusetts***

## **Division of Marine Fisheries**

**251 Causeway Street, Suite 400  
Boston, Massachusetts 02114**

**(617) 626-1520  
Fax (617) 626-1509**



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Robert Beal  
Director, Interstate Fisheries Management Program  
Atlantic States Marine Fisheries Commission  
1444 Eye Street, NW, 6<sup>th</sup> Floor  
Washington, D.C. 20005

Re: Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass

Dear Bob,

This letter contains my comments and concerns about Amendment 6 management options. Let me begin by stating that I do not think this plan could, or should, be adopted within the three hours allocated during the upcoming 2002 annual meeting. It is not nearly enough time for Board members to digest your summary of public hearing testimony and other written comment you may have received since the end of the public hearings. In addition, the Technical Committee has recently conducted the 2002 stock assessment, so I expect the Board will be looking forward to receiving a detailed summary of the assessment results. This would not leave sufficient time to debate and reach agreement on the numerous options contained in this FMP.

I deliberately use the phrase "reach agreement" on the options, because I fear using the routine procedure of majority rule to approve this amendment would not serve the public or the Commission well. There are options in the plan if adopted (or if not adopted) that could seriously affect the well being of striped bass fisheries for several of the key partner jurisdictions.

The striped bass resource is robust and it continues to grow in size. Most of our fisheries have prospered greatly over the past decade; for the most part, growth has occurred under status quo fishing conditions. There is no reason or evidence that suggests any fishing jurisdiction should be made to suffer because of an Amendment 6 decision, whether that decision involves resource allocation, target exploitation rates, or who should or should not have access to the striped bass resource.

Given the current excellent condition of striped bass stocks, any inability of the Striped Bass Board to provide all its partners reasonable consideration with respect to what they consider critical issues, in my view, would be cause for grave concern about the integrity and value of the ASMFC management process. A sensible approach for making Amendment 6 decisions might be by consensus building rather than by majority vote.

Consensus building is harder to achieve than a simple voting process and clearly it is more time consuming. I realize the time factor should not be taken lightly as implementation of a new plan is long overdue and some segments of the fishery will view another year without any change with intense dissatisfaction. While I want an alternative process for the Board to approve Amendment 6 options, I do not wish to delay implementation of the plan beyond the coming year. The plan should be approved and implemented no later than the Commission's spring 2003 meeting.

**Comments Specific to Amendment 6 Options:**Fishing Mortality Target – I support maintaining Status Quo mortality rates: ( $F = 0.30$ )

Under this scenario age structure will continue to expand and stock continues to grow; in addition, most aspects of the fishery have prospered greatly under these conditions during the past ten years.

The Technical Committee has estimated that mortality is at or below about 0.30 based on VPA and tag data analyses. Survival estimates from tag-based information consistently indicate that more conservative fishing conditions are taking place. Mortality estimates derived from tagging are closer to 0.20, and all source estimates agree that mortality is likely below 0.30. Regardless of the exact rate of exploitation, the stock continues to grow, the age structure of the population continues to expand and recruitment has been highly successful. There is no evidence that supports that a reduction in exploitation at this time is needed to benefit present or future fisheries; on the contrary, there is some evidence that more liberal fishing activity can be supported with implementation of Amendment 6.

One argument that I have heard often at hearings is that reduced mortality is needed to provide for a better age structure in the population. I have examined this concern very closely by studying past known age and length distributions from the 1930s, 1950s, 1960s, 1970s, right up to the present, and I can neither determine what the ideal natural age distribution of the population should be nor when it historically occurred.

What I do know is that as soon as a single fish is removed from any virgin population, the age distribution is changed. I also know that to continue successful management of this resource we need a spawning stock healthy enough to reproduce strong year classes every three to four years, sufficient younger fish to support large catch-and-release fisheries, and a number of larger trophy fish available to be caught. I am convinced that we have achieved these objectives under present conditions.

Fishing Mortality Threshold – I support using Maximum Sustainable Yield ( $F = 0.41$ ) as the Amendment 6 fishing mortality threshold. This is a biologically sound threshold, not to be approached or exceeded.

Selection of fishing mortality at MSY has traditionally been used as a target in past management practices for many other fisheries. I view its use as a threshold for striped bass management as a conservative, but acceptable position.

Biomass Target and Threshold – I support adopting female spawning stock with biomass target of 17,500t and threshold of 14,000t.

Tracking female biomass is the usual scientific basis for management; it is the most important reproductive segment of the population. A target of 17,500t is consistent with present levels of abundance that are providing excellent stock-recruitment and prosperous expansion of fisheries. A 14,000t threshold equates to the level observed in 1995 when the stock was declared restored. By never falling below this level, the stock will not lose its reproductive momentum and thereby will remain highly resilient to stock declines.

Stock Rebuilding Targets and Schedules – I support a 10-year rebuilding schedule and rebuilding to the Biomass target level.

Adoption of this measure should be linked to adoption of the biomass threshold. Since we should never fall below 1995 biomass levels if we adopt 14,000t as a biomass threshold, rebuilding stock status would not be as difficult or time consuming as prior efforts; stock size in the late 1970s fell below 10,000t.

Planning Horizons – I support setting management plans for 3 years and let them run uninterrupted.

The current stock is so robust that significant negative impacts from fishing are unlikely to occur within a 3-year period.

EEZ Opening – *Marine Fisheries* will continue its longstanding arguments to reopen federal waters (3 – 12 miles) adjacent to Massachusetts' territorial waters for striped bass fishing. ASMFC can consider two options to reopen fisheries in federal waters: In the so-called "territorial waters" (3-12 miles) states could manage striped bass fisheries. This would entail state enforcement personnel to patrol the area and enforce state rules. A second option that is much simpler and consistent with other ASMFC plans is to have NMFS lift the current prohibition on bass possession in the EEZ. Existing Massachusetts regulations are responsible and sufficiently

restrictive to prevent a proliferation of illegal or unintended activity. Massachusetts allows only striped bass by hook and line and prohibits the landing of any striped bass taken by a vessel rigged for netting or with longlines aboard. There are no valid scientific arguments to maintain a closure; this has become a dynamic political issue. I fully support transferring complete management authority of striped bass fishing in the territorial sea to the respective states. Each state could then decide how to manage their fisheries from 3-12 miles, just as they do in their coastal waters.

Some Board members may have the perception that this is an issue of narrow concern without a large base of support in our state, but let me assure you, that is not the case. A factual evaluation reveals that Massachusetts' anglers account for 85% of all recreationally caught and released striped bass (MRFSS). About 50% of that catch is reportedly from the EEZ. The high percentage of striped bass catch in Massachusetts reflects the distribution and aggregation of all migratory stocks between June and October. Fish are here due to upwelling and shoal areas off Massachusetts that provide productive feeding habitat for foraging migratory species. Our waters are also host to large pelagic species and other migratory fish during this same time period. The large fraction of catch taken by anglers in the EEZ is manifestation of traditional fishing practices handed down from generation to generation. Keep in mind that shoal areas (less than 30 feet of water) off some parts of our state extend over six to eight miles from shore.

The Commonwealth of Massachusetts has been trying to regain legal access to its traditional striped bass fishing grounds that lie beyond three miles of shore for more than six years now. Massachusetts fishery officials were concerned when the closure was first proposed in 1990 and spoke against it then. We feel that: (1) it was an unnecessary conservation measure given the resource was already showing signs of recovery; (2) most striped bass fishing along the coast does not occur in the EEZ, so an EEZ closure thereby poses geographically unfair restrictions; and (3) once in place a closure would be a difficult rule to retract. Regrettably, those concerns were right on target.

Some advocates for a continued closure of the EEZ argue that the closure provides an important conservation measure needed to protect larger and older striped bass. I do not think striped bass stocks need such protection, but if they did we should determine with more technical scrutiny where effective conservation should be practiced. MRFSS length frequency information and tagging data show striped bass that aggregate farther from shore are composed of mixed stocks of many age groups. In fact, mixing of stocks and age groups is greater offshore than from any nearshore area. Offshore waters are also colder and more saline than nearshore waters, a condition that is associated with the lowest discard mortality rates. Young, sexually immature fish, often originating from a single stock compose the bulk of schools that are targeted in shallow coastal waters, bays, and rivers where water quality conditions create the highest discard mortality rates. Accordingly, any effective conservation-based closure of fishing areas should focus on nearshore waters and rivers; such areas typically are also more easily monitored and enforced for regulatory violations.

Advocates of a continued EEZ closure also appear to link this closure with curtailment of commercial fishing activity. But in fact an opening of the EEZ would be a conservation-neutral measure with regards to commercial fisheries since they are already restricted by quotas. In the case of Massachusetts, our commercial quotas have been fully harvested without legal access to the EEZ. True benefactors of lifting the moratorium would be recreational fishery participants, especially anglers that fish from hired vessels because it typically requires captains that have extensive knowledge and experience to successfully prosecute the offshore fishery.

It has also been touted that promulgation of regulations in the EEZ must be consistent with national standards and that state law enforcement officials could not enforce the regulations. None of that is true as many states already enforce state regulations beyond their state's waters and many fishery regulations by their very nature do not comply with most of the national standards. Regardless, ASMFC plans do not have to comply with national standards and the most effective striped bass enforcement actions occur dockside. If we were to be consistent with following these arguments for continued EEZ closures then we would have to support the notion that we cannot effectively manage any fishery resource in federal waters. The argument transcends to all EEZ fisheries: Do we support EEZ closures for other important interstate fisheries such as those for weakfish, bluefish, American lobster, or summer flounder, or do we reserve that designation just for fully recovered fish stocks?

The Board must give this issue very serious thought. The Commonwealth, along with all its ASMFC partners, has worked extremely hard and has made large investments to recover this extremely valuable natural resource. I am

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confident that there is an intelligent, innovative solution to help us regain our fishery and ASMFC working with NOAA Fisheries will discover it and offer it prior to the next fishing season as part of this management process.

Allocation – Although there are several options that I could support, I feel strongly that the Board must reach consensus on allocation decisions. Therefore, I decline identifying specific allocation options that are acceptable to me at this time. However, I will oppose any proposals to adopt measures that penalize the Commonwealth or any other jurisdictions for their past conservation efforts. In addition, I support changes in coastal commercial quotas to allow reasonable increases given the static conditions for those fisheries since 1995, but careful consideration of increased fishing mortality will be needed to account for such action.

Sincerely,



Paul Diodati

Cc: Vince O'Shea  
Striped Bass Management Board